

JOURNAL OF THE HOUSE.

Monday, May 15, 2006.

Met according to adjournment, at eleven o'clock A.M., in an Informal Session, with Mr. Donato of Medford in the Chair (having been appointed by the Speaker, under authority conferred by Rule 5, to perform the duties of the Chair).

Prayer was offered by the Reverend Robert F. Quinn, C.S.P., Chaplain of the House, as follows:

Prayer.

God, Our Creator, we live each moment of the day in Your presence. We believe that we can count on Your assistance in responding thoughtfully to our personal and legislative responsibilities and opportunities for serving You and the people. In addressing the many and often complex needs of people and society in our search for truth, we depend upon You and Your gifts of wisdom and understanding. These gifts enable us to make the right choices and decisions. Inspire us to make our communities safe, peaceful, prosperous and civil by our common efforts.

Grant Your blessings to the Speaker, the members and employees of this House and their families. Amen.

Pledge of
allegiance.

At the request of the Chair (Mr. Donato), the members, guests and employees joined with him in reciting the pledge of allegiance to the flag.

Message from the Governor — Veto.

Northern
Berkshire,
industrial
development.

A message from His Excellency the Governor returning with his objections thereto in writing the engrossed Bill amending the law establishing the Northern Berkshire Industrial Park and Development Corporation [see House, No. 4376, amended] (for message, see House, No. 4960) was filed in the Office of the Clerk on Saturday, May 13.

The message was read; and, under House Rule 12, it was placed in the Orders of the Day for the next sitting, the question being on passing the bill, notwithstanding the said objections.

Message from the Governor.

Capital
spending
authorizations.

A message from His Excellency the Governor recommending legislation relative to certain capital spending authorizations (House, No. 4961) was filed in the office of the Clerk on Saturday, May 13.

The message was read; and it was referred, under Rule 30, with the accompanying draft of a bill, to the committee on Bonding, Capital Expenditures and State Assets. Sent to the Senate for concurrence.

Resolutions.

The following resolutions (filed with the Clerk) were referred, under Rule 85, to the committee on Rules:

Lynore
Frew.

Resolutions (filed by Mr. Atsalis of Barnstable) congratulating Lynore Frew on the occasion of her retirement;

Resolutions (filed by Mr. Correia of Fall River) congratulating Saint Stanislaus Catholic School on the occasion of its one hundredth anniversary;

Saint
Stanislaus
School.

Resolutions (filed by Mrs. Haddad of Somerset) congratulating Brian Wells on receiving the Eagle Award of the Boy Scouts of America;

Brian
Wells.

Resolutions (filed by Ms. Kaprielian of Watertown) honoring the one hundred and seventy-fifth anniversary of Mount Auburn Cemetery;

Mount
Auburn
Cemetery.

Resolutions (filed by Representatives Koczera of New Bedford and Haddad of Somerset) congratulating Claire Ann Thibodeau on her retirement as an educator in the New Bedford Public School System;

Claire Ann
Thibodeau.

Resolutions (filed by Mr. O'Brien of Kingston) congratulating Barbara Gomez on the occasion of her retirement; and

Barbara
Gomez.

Resolutions (filed by Mr. Smizik of Brookline) congratulating the third grade students on their participation in the Edward Devotion School twenty-second annual essay and poetry program;

Edward
Devotion
School.

Mrs. Parente of Milford, for the committee on Rules, reported, in each instance, that the resolutions ought to be adopted. Under suspension of the rules, in each instance, on motion of Ms. Wolf of Cambridge, the resolutions (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted.

Papers from the Senate.

Bills

Removing automatic qualification for certain licenses (Senate, No. 469, amended by striking out section 1 and inserting in place thereof the following section:

Hunter
education.

"SECTION 1. Section 11 of chapter 131 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by striking out, in lines 7 to 12, the words:— ; provided, however, that any individual issued a firearm identification card under section 129B of chapter 140 or a license to carry firearms, including Class A and Class B licenses, under section 131 of said chapter 140 shall be automatically qualified to receive a sporting, hunting, fishing or trapping license.") (on a petition);

Requiring the inspecting and securing of unsafe or abandoned buildings (Senate, No. 1370) (on a petition);

Abandoned
building,
inspections.

Authorizing the appointment of Lori Moniz as a reserve police officer for the city of Taunton (Senate, No. 2486) (on a petition) [Local Approval Received];

Lori Moniz,
Taunton
Police.

Relative to the licensure of animal control officers (Senate, No. 2518) (on Senate bill, No. 1190);

Animal control
officers.

Severally passed to be engrossed by the Senate, were read; and they were referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

A petition (accompanied by bill, Senate, No. 2534) of Robert L. Hedlund and Garrett J. Bradley (by vote of the town) for legislation to exempt the position of Deputy Police Chief in the town of Hingham

Hingham,
Deputy
Police Chief.

from civil service law and rules, was referred, in concurrence, to the committee on Public Service.

Petitions were referred, in concurrence, under suspension of Joint Rule 12, as follows:

Avon,
economic
target area.

Petition (accompanied by bill, Senate, No. 2543) of Brian A. Joyce and William C. Galvin for legislation to designate the town of Avon as an economic target area. To the committee on Community Development and Small Business.

Ticket
resale.

Petition (accompanied by bill, Senate, No. 2544) of Steven C. Panagiotakos, David M. Nangle, Stephen J. Buoniconti and Kevin J. Murphy for legislation relative to ticket resale. To the committee on Consumer Protection and Professional Licensure.

Diabetes,
treatment of
students.

Petition (accompanied by bill, Senate, No. 2545) of James E. Timilty for legislation to authorize self-monitoring and treatment of students with diabetes. To the committee on Health Care Financing.

Fred
Magdalenski,
Westford.

Petition (accompanied by bill, Senate, No. 2546) of Steven C. Panagiotakos for legislation to authorize the refund of automobile sales tax to Fred Magdalenski of the town of Westford. To the committee on Revenue.

Reports of Committees.

Taunton,
firefighter
eligibility.

By Mr. Scaccia of Boston, for the committee on Rules, that Joint Rule 7B be suspended on the petition of James H. Fagan relative to authorizing the certification and eligibility of certain persons as fire fighters in the city of Taunton. Under suspension of the rules, on motion of Mr. Smizik of Brookline, the report was considered forthwith. Joint Rule 7B was suspended; and the petition (accompanied by bill) was referred to the committee on Public Service. Sent to the Senate for concurrence.

By Mr. Scaccia of Boston, for the committee on Rules and the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the following petitions:

Ballots,
sealing.

Petition (accompanied by bill) of Anthony Petrucci and others for legislation to regulate the sealing of ballots and voting lists in conducting elections; and

Election
officers.

Petition (accompanied by bill) of Anthony Petrucci and others relative to the appointment of officers for the supervision of elections in the cities and towns of the Commonwealth;

Severally to the committee on Election Laws.

Karen W.
Boyson,
sick leave.

Petition (accompanied by bill) of Jeffrey Davis Perry and Cleon H. Turner for legislation to establish a sick leave bank for Karen W. Boyson, an employee of the Barnstable Division of the Juvenile Court of the Commonwealth. To the committee on the Judiciary.

Route 28,
Glory Road.

Petition (accompanied by bill) of Robert Sansone that the Department of Highways be directed to designate Route 28 as "Glory Road" in celebration of racial harmony, diversity and tolerance. To the committee on Transportation.

Under suspension of the rules, on motion of Ms. Provost of Somerville, the reports were considered forthwith. Joint Rule 12 then was suspended, in each instance. Severally sent to the Senate for concurrence.

By Mr. Mariano of Quincy, for the committee on Financial Services, on House, Nos. 1503, 1504, 1506, 1507, 1508, 1509, 1510, 1511, 1513, 1516, 1518, 1519, 1520, 1521, 1523, 1524, 1528, 1529, 1531, 1532, 1533, 1534, 1535, 1536, 1537, 1538, 1539, 1540, 1541, 1543, 1544, 1546, 1549, 1550, 1554, 1556, 1557, 1558, 1559, 1560, 1561, 1562, 1563, 1564, 1565, 1566, 1567, 1569, 2083, 2670, 2800, 2859, 2944, 2946, 2947, 2948, 2949, 2950, 2951, 2952, 2953, 2954, 2955, 2956, 2957, 2958, 2959, 2960, 2963, 2965, 2968, 2969, 2971, 2972, 2975, 2976, 2981, 2984, 2986, 2987, 2988, 2989, 2990, 2991, 2994, 2995, 2996, 2997, 2998, 2999, 3000, 3001, 3002, 3003, 3004, 3008, 3009, 3010, 3011, 3012, 3014, 3015, 3016, 3017, 3019, 3020, 3022, 3023, 3024, 3026, 3027, 3028, 3030, 3031, 3032, 3036, 3037, 3039, 3040, 3041, 3042, 3043, 3044, 3045, 3048, 3050, 3051, 3052, 3053, 3056, 3058, 3063, 3066, 3070, 3071, 3072, 3073, 3074, 3078, 3080, 3082, 3084, 3085, 3086, 3087, 3088, 3089, 3090, 3091, 3092, 3096, 3097, 3098, 3242, 3745, 3901, 3905, 4322 and 4516, an Order relative to authorizing the committee on Financial Services to make an investigation and study of certain House documents concerning insurance benefits (House, No. 4957). Referred, under Joint Rule 29, to the committees on Rules of the two branches, acting concurrently.

Insurance
benefits,
study.

Subsequently Mr. Scaccia of Boston, for said committees, reported, asking to be discharged from further consideration of the order; and recommending that the same be referred to the House committee on Rules. Under Rule 42, the report was considered forthwith; and it was accepted.

By Mrs. Walrath of Stow, for the committee on Health Care Financing, that the Bill relative to shaken baby syndrome (House, No. 4855) ought to pass with an amendment substituting therefor a Bill to prevent shaken baby syndrome in Massachusetts (House, No. 4959). Referred, under Rule 33, to the committee on Ways and Means with the amendment pending.

Shaken baby
syndrome.

By Mr. DeLeo of Winthrop, for the committee on Ways and Means, that the Bill relative to streamlining and expediting the permitting process in the Commonwealth (House, No. 4741) ought to pass with certain amendments in section 3, in line 1, by striking out the following: "4G" and inserting in place thereof the following: "4H"; by striking out section 15 and inserting in place thereof the following section:

Permitting
process,
expand.

"SECTION 15. Chapter 185 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by inserting after section 3 the following new section:—

Section 3A. There shall be established a separate session of the land court department, which shall be known as the permit session of the land court department.

Sessions of the permit session shall be held in Suffolk, Middlesex, Essex, Norfolk, Plymouth, Worcester and Hampden counties, and such other counties as the chief justice of the land court department shall from time to time designate.

The permit session shall have original jurisdiction, concurrently with the superior court department, over civil actions in whole or part: (a) based on or arising out of the appeal of any municipal,

Permitting
process,
expand.

regional or state permit, order, certificate or approval, or the denial thereof, concerning the use or development of real property, including without limitation appeals of such permits, orders, certificates or approvals, or denials thereof, arising under or based on or relating to chapter 21, sections 61 through 62H, inclusive, of chapter 30, chapters 30A, 40A, 40B, 40C, 40R, 41, 43D, 91, 131, 131A, or sections 4 and 5 of chapter 249, or chapter 665 of the acts of 1956; or any local bylaw or ordinance; (b) seeking equitable or declaratory relief (i) designed to secure or protect the issuance of any municipal, regional or state permit or approval concerning the use or development of real property or (ii) challenging the interpretation or application of any municipal, regional or state rules, regulations, statutes, laws, bylaws, ordinances concerning any permit or approval; (c) claims under chapter 231, section 6F or for malicious prosecution, abuse of process, intentional or negligent interference with advantageous relations or intentional or negligent interference with contractual relations arising out of or based on or relating to the appeal of any municipal, regional, state permit or approval concerning the use or development of real property; and/or (d) any other claims between persons holding any right, title or interest in land and any municipal, regional or state board, authority, commission or public official based on or arising out of any action taken with respect to any permit or approval concerning the use or development of real property.

Notwithstanding any other General Law to the contrary, any action not commenced in the permit session, but within the jurisdiction of the permit session as provided in this section, shall be transferred to the Permit Session, upon motion by any party to the chief justice for administration and management. There shall be a presumption against more than one transfer of a case between any departments of the trial court.

Each case filed in the permit session shall be assigned to a single judge from the commencement to the conclusion of the case. The judge assigned to the case will hold all hearings and preside at the trial, except in the case of death, disability, expiration of judicial appointment to the permit session or emergency.

At the time of filing, all cases in the permit session shall be assigned to one of the following tracks: twelve (12) months to trial (Average or 'A' Track); nine (9) months to trial (Fast or 'F' Track); or six (6) months to trial (Accelerated or 'X' Track). Particular classes of cases shall be assigned to each of these tracks in accordance with regulations established by the chief justice of the land court department. On motion by a party or the court's own motion, where an exceptional cause is shown, cases may be reassigned to a different track or tracking order dates may be extended or modified.

The final disposition of cases in the permit session by the court by dismissal, judgment or otherwise shall be in accordance with the following timeframes which shall commence on the filing of the trial transcript with the court (or in the case of a summary judgment motion, from the date the motion is taken under advisement): A Track in four (4) months, F Track in three (3) months and X Track in two (2) months.

The chief justice of the land court department shall establish a procedure for the assignment to mediation of disputes that have been filed with or transferred to the permit session, and shall promulgate rules, subject to the approval of the chief justice for administration and management, that promote the expeditious resolution of such disputes within the time periods provided in this chapter. The mediators shall be persons who by reason of their past experience in private practice or on the bench have particular skills related to environmental and land use permitting and/or disputes concerning the same. The chief justice of the land court department may approve qualified providers of mediation services. The mediator shall have the protections provided under section 23C of chapter 233, and to the extent that public agencies are participants in the mediation, their deliberations shall not be subject to the provisions of section 23B of chapter 39.”; and by adding at the end thereof the following section:

“SECTION 18. Section 2 of chapter 211B of the General Laws, as so appearing, is hereby amended in line 2 by striking out the figure ‘6’ and inserting in place thereof the following:— 7.”. Referred, under Rule 7A, to the committee on Steering, Policy and Scheduling with the amendments pending.

Mr. Donato of Medford, for said committee, reported that the matter be scheduled for consideration by the House; and, under said rule, it was placed in the Orders of the Day for the next sitting for a second reading with the amendments pending.

By Mr. Cabral of New Bedford, for the committee on State Administration and Regulatory Oversight, that the recommitted Bill designating Natick as the home of champions (House, No. 3489) ought to pass with an amendment substituting therefor a Bill designating Natick as the home of champions & Brockton as the city of champions (House, No. 4958). Referred, under Rule 7A, to the committee on Steering, Policy and Scheduling with the amendment pending.

Natick,
Home of
Champions.

By Mrs. Walrath of Stow, for the committee on Health Care Financing, that the following

Bill relative to the authority of the Disabled Persons Protection Commission (House, No. 2847);

Disabled Persons
Commission.

Bill relative to the authority of the Disabled Persons Protection Commission (House, No. 2848);

ii

Bill relative to the disclosure of information held by the Disabled Persons Protection Commission (House, No. 2849);

ii

Bill regarding the definition of “disabled person” as used by the Disabled Person Protection Commission (House, No. 2850);

ii

Bill relative to the reduction of medical errors (House, No. 3129);

Medical errors.

Bill to protect the public health by banning the public distribution of free smoking or tobacco products for commercial purposes (House, No. 3634);

Free tobacco
products.

Bill relative to the Massachusetts Commission on End of Life Care (House, No. 3641);

End of life
care.

Bill providing for the registration of naturopathic doctors (House, No. 4250) [Senator Moore dissenting]; and

Naturopathic
doctors.

Immunizations.

Bill further regulating early childhood immunizations (House, No. 4703);

Severally referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Emergency Measure.

Joseph F.
Feeney
Courthouse.

The engrossed Bill designating the South Boston Court House as the Chief Justice Joseph F. Feeney courthouse (see House, No. 3445), having been certified by the Clerk to be rightly and truly prepared for final passage, was considered, the question being on adopting the emergency preamble.

A separate vote was taken, as required by the provisions of Article XLVIII (as amended by Article LXVII) of the Amendments to the Constitution; and the preamble was adopted, by a vote of 3 to 0. Sent to the Senate for concurrence.

Engrossed Bills.

Bills
enacted.

Engrossed bills

Relative to the Nantucket Islands Land Bank (see Senate, No. 2330, amended) (which originated in the Senate); and

Authorizing the town of Stoughton to establish a Massachusetts Water Resources Authority capital infrastructure fund (see House, No. 4255, changed) (which originated in the House);

Severally having been certified by the Clerk to be rightly and truly prepared for final passage, were passed to be enacted; and they were signed by the acting Speaker and sent to the Senate.

School
employees,
insurance.

The engrossed Bill extending eligibility for health insurance for school employees (see House, No. 4654), having been certified by the Clerk to be rightly and truly prepared for final passage, was put upon its final passage.

Pending the question on passing the bill to be enacted, Mr. Kaufman of Lexington moved that Rule 40 be suspended; and the motion prevailed.

The same member then moved that the bill be amended by inserting before the enacting clause the following emergency preamble:

“Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith health insurance for certain school employees, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.”

The amendment was adopted. Sent to the Senate for concurrence.

Orders of the Day.

Third
reading
bills.

House bills

Relative to the boundaries of the Cherry Valley and Rochdale Water District (House, No. 4677); and

Relative to recall elections in the town of Framingham (House, No. 4694) (its title having been changed by the committee on Bills in the Third Reading);

Severally reported by said committee to be correctly drawn, were read a third time; and they were passed to be engrossed. Severally sent to the Senate for concurrence.

Order.

On motion of Mr. DiMasi of Boston,—

Ordered, That when the House adjourns today, it adjourn to meet on Wednesday next at eleven o'clock A.M. Next sitting.

At a quarter after eleven o'clock A.M., on motion of Mr. Hynes of Marshfield (Mr. Donato of Medford being in the Chair), the House adjourned, to meet on Wednesday next at eleven o'clock A.M.